

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CASE NO. 04-10258NG

ARTHUR PERNOKAS,  
Plaintiff

VS.  
BARRIE PASTER, M.D.,  
Defendant

)
)
)
)
)
)
)
)

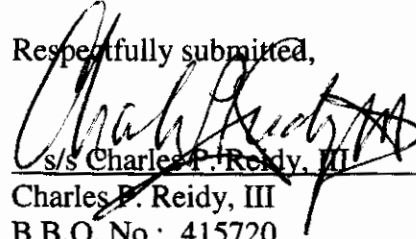
**MOTION OF DEFENDANT, BARRIE PASTER, M.D.  
FOR DIRECTED VERDICT**

Now comes the defendant and on all the pleadings and evidence moves for a directed verdict on Count I of the Complaint (Count II having been previously dismissed voluntarily) on the following stated grounds:

1. There is no evidence that the defendant Barrie Paster, M.D. was negligent in his care or breached any legal duty owed to Mr. Pernokas.
2. There was no evidence to support any claim for medical expenses.
3. There is no evidence to support a claim that Mr. Pernokas has a decreased life expectancy or that he will not survive his disease. The only evidence is that he more probably than not will survive without recurrence.
4. There is no evidence that the stage of Mr. Pernokas' disease, the treatment he received and/or the results of that treatment would have been any different other than if his disease was diagnosed by September – October, 1998.
5. There is no evidence that anything either done or not done by Dr. Paster in his care of Mr. Pernokas caused harm.

6. There is no basis in law or fact for any recovery or claim for alleged "loss of chance."

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles P. Reidy, III", is written over a horizontal line.

s/s Charles P. Reidy, III

Charles P. Reidy, III

B.B.O. No.: 415720

Attorney for Defendant,

Barrie Paster, M.D.

Martin, Magnuson, McCarthy  
& Kenney

101 Merrimac Street

Boston, Massachusetts 02114

(617) 227-3240